

Received & Inspected  
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FCC Mail Room

**Congress of the United States**  
Washington, DC 20515

1193

November 19, 2015

The Honorable Thomas Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Wheeler:

During the Open Internet proceeding, the FCC heard from small businesses regarding the impact of the FCC's enhanced transparency requirements.<sup>1</sup> In its Order, the Commission rightly recognized that small businesses are uniquely situated and granted small businesses a temporary exemption from the requirements.<sup>2</sup> We applaud the Commission's action in granting this temporary exemption and urge you to make it permanent.

Small businesses serve as the backbone of the United States economy. In fact, small businesses represent 99.7 percent of all employers in the United States,<sup>3</sup> create 63 percent of net new private-sector jobs,<sup>4</sup> and create more than half of private, non-farm gross domestic product.<sup>5</sup> These companies are the true "job creators," consistently responsible for 60% to 80% of net new jobs in each of the past 10 years.<sup>6</sup>

As the Chief Counsel for Advocacy at the Small Business Administration (SBA) has pointed out, "[s]mall business participation in the service of broadband is vitally important for achieving the goal of greater consumer access and choice."<sup>7</sup> As the Commission learned from the record leading up to its issuance of the Open Internet Order, the enhanced transparency requirements jeopardize the ability of small Internet Service Providers (ISPs) to offer broadband services to our constituents, and to deploy faster and more sophisticated broadband networks.<sup>8</sup> Smaller ISPs, particularly in rural areas, provide service to fellow small businesses. It is

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<sup>1</sup> *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601, ¶ 172 (2015) (Open Internet Order) ("[t]he record reflects the concerns of some commenters that enhanced transparency requirements will be particularly burdensome for small providers.").

<sup>2</sup> *Id.* ¶ 173.

<sup>3</sup> UNITED STATES SMALL BUSINESS ADMINISTRATION, *Frequently Asked Questions*, available at [https://www.sba.gov/sites/default/files/FAQ\\_March\\_2014\\_0.pdf](https://www.sba.gov/sites/default/files/FAQ_March_2014_0.pdf) (last visited Nov. 2, 2015).

<sup>4</sup> *Id.*

<sup>5</sup> <http://www.nfib.com/advocacy/economy/> (last visited Nov 2, 2015).

<sup>6</sup> *Id.*

<sup>7</sup> Letter from Winslow Sargeant, Chief Counsel for Advocacy, and Jamie Saloom, Assistant Chief Counsel for Telecommunications, U.S. Small Business Administration to Marlene Dortch, Secretary, FCC, GN Docket No. 14-28 at 3 (filed Sept. 25, 2014).

<sup>8</sup> 2015 Open Internet Order at para. 172.

critically important to these rural communities that the ability of ISPs to offer state-of-the-art broadband services not be diminished.

Given the stakes for America's small businesses, the FCC was right to exercise caution and grant the temporary exemption. Now is the time to recognize the disproportionate impact that the requirements would have on these ISPs and their customers and make the exemption permanent. Additionally, the Commission should grant the exemption to all small businesses that meet the definitions previously set by the SBA.

In the Open Internet Order, the FCC temporarily exempted small ISPs with 100,000 or fewer subscribers from the enhanced transparency requirements; however, the Order indicated that the Commission would continue to consider the appropriate threshold for the exemption. The interim standard adopted in the Order deviates from the definitions set by the SBA for small telecommunications carriers (1,500 employees) and other small business definitions adopted by the FCC and approved by the SBA. We urge the Commission to extend this to ISPs that meet the SBA's definition of small telecommunications carrier, or the FCC's SBA-approved definition of a small wireless carrier (500,000 or fewer subscribers).

Small ISPs do not have the resources necessary for compliance with the enhanced transparency requirements, and the FCC should provide a permanent exemption from such requirements for any ISP that comports with the SBA definition of small telecommunications carrier or utilize the definition of a small carrier adopted by the FCC and approved by the SBA.

Thank you for your consideration of our views on this important issue. We look forward to your response.

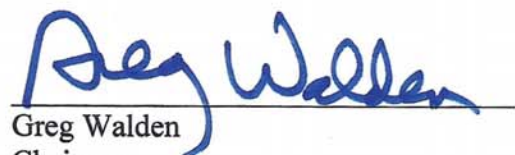
Sincerely,



Fred Upton  
Chairman  
Committee on Energy and Commerce



Steve Chabot  
Chairman  
Committee on Small Business



Greg Walden  
Chairman  
Subcommittee on Communications  
and Technology



Bob Latta  
Vice Chairman  
Subcommittee on Communications  
and Technology



Stu Scalise, LA-1  
Member

[Signature] IL 15  
Member

Steve King IA-7  
Member

[Signature]  
Member

Harsha Halloran  
Member

Brett Muthart KY-2  
Member

Leonard Lance NJ-7  
Member

[Signature] OK-2  
Member

[Signature] NC-2  
Member

[Signature] TX-26  
Member

[Signature] PA-16  
Member

Phil Harkin NC-8  
Member

Bill Johnson OH-6  
Member

[Signature] MS-01  
Member

[Signature] TX-22  
Member

[Signature]  
Member

[Signature] IL-12  
Member

[Signature] VA-07  
Member

Tim Huebner KS-01  
Member

Doug Long MD-7  
Member

Chris Papp KS-4  
Member

John Hall CA-25  
Member

Wesley Papp KS-4  
Member

Bob Dham NY-22  
Member

John Hall KS-5  
Member

Reinhard ND  
Member

Chris Colles NY-27  
Member

CPH NY-19  
Member

Bob Dine KS-5  
Member

Anna Curtis  
Member

Crusent Hardy  
Member





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Steve King  
U.S. House of Representatives  
2210 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman King:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

As you know, the enhanced information collection requirements imposed by the transparency rule are subject to the Paperwork Reduction Act of 1995 (PRA). Accordingly, on May 20, 2015, the Commission published in the Federal Register and sought comment on its initial PRA burden estimates. The Commission is proceeding through the PRA process, which involves estimating the burden of complying with the transparency rule enhancements for providers of all sizes and obtaining approval from the Office of Management and Budget. To avoid acting prematurely, the Report and Order extended the temporary exemption for smaller providers until December 15, 2016. At that time, we anticipate that the PRA process will be complete. With the benefit of more complete information about the compliance burden, the full Commission will be able to consider whether and, if so, how best to extend the temporary exemption from the enhanced transparency requirements.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Adam Kinzinger  
U.S. House of Representatives  
1221 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Kinzinger:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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Sincerely,

Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Steve Knight  
U.S. House of Representatives  
1023 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Knight:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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Sincerely,

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Leonard Lance  
U.S. House of Representatives  
2352 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Lance:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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Sincerely,

Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Bob Latta  
U.S. House of Representatives  
2448 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Latta:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Billy Long  
U.S. House of Representatives  
1541 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Long:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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Sincerely,

Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Blaine Luetkemeyer  
U.S. House of Representatives  
2440 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Luetkemeyer:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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Sincerely,

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Markwayne Mullin  
U.S. House of Representatives  
1113 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Mullin:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Pete Olson  
U.S. House of Representatives  
2133 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Olson:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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Sincerely,

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Joe Pitts  
U.S. House of Representatives  
420 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Pitts:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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Sincerely,

Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Mike Pompeo  
U.S. House of Representatives  
436 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Pompeo:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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Sincerely,

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Steve Scalise  
U.S. House of Representatives  
2338 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Scalise:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable John Shimkus  
U.S. House of Representatives  
2217 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Shimkus:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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Sincerely,

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Upton:

Thank you for your letter urging the Commission to permanently exempt smaller providers from the Open Internet enhanced transparency requirements. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

As you know, the enhanced information collection requirements imposed by the transparency rule are subject to the Paperwork Reduction Act of 1995 (PRA). Accordingly, on May 20, 2015, the Commission published in the Federal Register and sought comment on its initial PRA burden estimates. The Commission is proceeding through the PRA process, which involves estimating the burden of complying with the transparency rule enhancements for providers of all sizes and obtaining approval from the Office of Management and Budget. To avoid acting prematurely, the Report and Order extended the temporary exemption for smaller providers until December 15, 2016. At that time, we anticipate that the PRA process will be complete. With the benefit of more complete information about the compliance burden, the full Commission will be able to consider whether and, if so, how best to extend the temporary exemption from the enhanced transparency requirements.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 19, 2016

The Honorable Greg Walden  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Walden:

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I know we share the goals of providing broadband consumers with critical information regarding commercial terms, performance speeds and characteristics, and network practices, without overly burdening small providers of broadband internet access service. The *2015 Open Internet Order* temporarily exempted small providers with 100,000 or fewer broadband connections from providing the enhanced transparency requirements while the Commission evaluated the impact. On December 15, 2015, the Consumer and Governmental Affairs Bureau issued a Report and Order finding that at this time it cannot fully evaluate the impact of removing the temporary exemption for smaller broadband Internet access service providers from the enhancements to the Open Internet transparency rule previously adopted by the Commission in the *2015 Open Internet Order*.

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